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**UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA**

CHASOM BROWN, WILLIAM BYATT,  
 JEREMY DAVIS, CHRISTOPHER  
 CASTILLO, and MONIQUE TRUJILLO  
 individually and on behalf of all other  
 similarly situated,

Plaintiffs,

vs.

GOOGLE LLC,

Defendant.

Case No.: 4:20-cv-03664-YGR-SVK

**DECLARATION OF AMANDA BONN IN  
 SUPPORT OF PLAINTIFFS' MOTION  
 FOR CLASS CERTIFICATION AND  
 APPOINTMENT OF CLASS  
 REPRESENTATIVES AND CLASS  
 COUNSEL**

Judge: Hon. Yvonne Gonzalez Rogers  
 Date: September 20, 2022  
 Time: 2:00 p.m.

**DECLARATION OF AMANDA BONN**

I, Amanda Bonn, declare as follows.

1. I am a partner with the law firm of Susman Godfrey LLP, counsel for Plaintiffs in this matter. I am an attorney at law duly licensed to practice before all courts of the State of California. I have personal knowledge of the matters set forth herein and am competent to testify.

2. I submit this Declaration in support of Plaintiffs' motion for class certification and appointment of class representatives and class counsel.

3. The three law firms representing Plaintiffs, Boies Schiller Flexner, Morgan & Morgan, and Susman Godfrey (collectively, "Counsel"), have collectively invested significant resources into investigating and litigating this case. Counsel now together move to be appointed co-lead class counsel. *See also* Lee Declaration; Yanchunis Declaration.

4. Counsel has diligently pursued discovery into Google's collection, storage, and use of private browsing information. Google initially proposed only ten document custodians. Through a combination of negotiations and Court intervention, Counsel secured an additional 32 Google custodians. Counsel similarly secured key search terms, including "Incognito," and a cross-use and discovery coordination order with the *Calhoun v. Google* case, 4:20-cv-05146-YGR-SVK. Counsel's efforts, including the filing of 28 discovery dispute letter briefs and/or motions to compel, have resulted in Google producing almost one million documents. Counsel also served 235 RFPs, 40 Interrogatories and 75 RFAs, having successfully moved to increase their limit on Interrogatories and RFAs, and Counsel also successfully moved for an increase to the presumptive limit of ten depositions per side, resulting in Plaintiffs taking 25 depositions. Counsel at the same time vigorously pursued production of relevant data, working with the Special Master, and Counsel retained and onboarded 29 consultants and experts to assist with day-to-day review of discovery and prepare reports. Counsel also overcame two motions to dismiss filed by Google (Dkts 113, 363), and successfully moved to amend the Complaint to change their proposed class definitions to cover additional Google products and services. (Dkt. 504.) Counsel also vigorously pursued

discovery into Google’s Incognito detection bits, revealed for the first time just before and after the close of fact discovery, and successfully moved for sanctions based on Google’s discovery misconduct related to those bits. (Dkt. 588.)

### 1. Relevant Firm Expertise

5. This complex technology class action demands lawyers skilled not only in navigating and distilling complex technical details, but also in managing the complexities of large-scale class actions with millions of potential plaintiffs. Susman Godfrey does both.

6. “Pick your metric—money, U.S. Supreme Court clerks, bet-the-company cases, percentage of partners in trial annually—the firm runs circles around everyone else.”<sup>1</sup> Some of the most sophisticated purchasers of litigation services rely on Susman Godfrey for all kinds of trials: Uber, Zillow, Chevron, General Electric, NBCUniversal, Texas Instruments, and Wal-Mart to name a few. For nearly 40 years, Susman Godfrey has been winning trials on both sides of the docket, with plaintiffs’ verdicts totaling billions of dollars.

7. Over the past decade, Susman Godfrey has successfully handled some of the highest-profile technology cases against Google—including being selected as Uber’s lead-trial counsel in Google’s case against Uber involving self-driving cars and a massive patent infringement case relating to Google’s use and monetization of “user profile” data across a range of its products.

8. In 2017, Uber hired Susman Godfrey to be lead trial counsel in a case against Google’s Waymo that was coined by the press as “Silicon Valley’s Biggest Showdown.”<sup>2</sup> The trial involved complicated technology, patents, and trade-secret claims. Joined at trial by BSF and MoFo, Susman Godfrey tried the case for three days before the case settled. As in this case, Google was also represented by Quinn Emmanuel in the Waymo litigation.

<sup>1</sup> Katrina Dewey, *Don’t Mess with Texas*, Lawdragon, Dec. 3, 2017, available at <http://www.lawdragon.com/2017/12/03/dont-mess-texas-susman-godfrey-became-americas-leading-trial-firm/>

<sup>2</sup> *Waymo LLC v. Uber Techs., Inc.*, Case No. 17-cv-939-WHA (N.D. Cal.).

9. Similarly, in 2014, Susman Godfrey represented the Rockstar Consortium—a joint venture of Apple, Ericsson, Sony, and Blackberry—in its patent infringement suit against Google related to its use of “user profile” data to serve targeted advertisements.<sup>3</sup> The case settled as part of a \$900 million deal with the leading defense patent-licensing aggregator, RPX Corporation.

10. And presently, Susman Godfrey represents Arendi SARL in ongoing patent infringement litigation against Google for infringing its patented information handling and linking technology—litigation that implicates Google Chrome.<sup>4</sup>

11. Susman Godfrey has also served as lead counsel in some of the largest and most complex class actions, spanning a wide variety of practice areas.<sup>5</sup> Susman Godfrey obtains exceptional results for the classes it represents. The Chief Judge of the Southern District of New York praised Susman Godfrey’s \$130 million settlement against Phoenix Life Insurance as “an excellent, excellent result for the class” and “the best settlement pound for pound for the class that I’ve ever seen.”<sup>6</sup> Law360 recently named Susman Godfrey a CyberSecurity Group of the Year.<sup>7</sup>

12. A few examples of Susman Godfrey’s class action leadership include:

- *In re: Libor-Based Financial Instruments Antitrust Litigation*: Susman Godfrey serves as co-lead counsel in the nationwide LIBOR antitrust litigation, for Yale University and a class of purchasers of LIBOR-based instruments. Under the leadership of Bill Carmody, Susman Godfrey has led the fight through the United States Supreme Court to overcome the defendants’ motions to dismiss Plaintiffs’ price-fixing claims, certifying a nationwide class and securing settlements so far with 4 of the 16 defendants for \$590 million.
- *In re: Automotive Parts Antitrust Litigation*: Susman Godfrey serves as co-lead counsel in this massive litigation that has been pending since 2011, racking up settlements that now exceed \$1.2 billion.

<sup>3</sup> *Rockstar Consortium US LP v. Google Inc.*, Case No. 13-cv-893 (E.D. Tex.).

<sup>4</sup> *Arendi SARL v. Google, Inc.*, Case No. 13-cv-919 (D. Del.).

<sup>5</sup> *See In re: Flint Water Cases / Carthan v. Snyder*, Case No. 16-cv-10444 (E.D. Mi.) *In re: Libor-Based Fin. Instruments Antitrust Litig.*, 11-md-0226 (S.D.N.Y.); *In re Animation Workers Antitrust Litigation*, 14-cv-04062-LHK (N.D. Cal.).

<sup>6</sup> *Fleisher v. Phoenix Life Ins. Co.*, Case No. 11-cv-8405 (S.D.N.Y.).

<sup>7</sup> Law360, *Cybersecurity Group Of The Year: Susman Godfrey*, available at <https://www.law360.com/pulse/articles/1454702/cybersecurity-group-of-the-year-susman-godfrey>

- 1 • *In re: Animation Workers Antitrust Litigation*: Susman Godfrey served as co-lead counsel for digital animation workers who were allegedly subject to wage suppression as a result of “no poaching” agreements by their employers, obtaining over \$168 million in settlements.
- 2
- 3 • *Flint Water Crisis Litigation*: Susman Godfrey chairs the Executive Committee in this multi-billion-dollar complex personal-injury and property litigation on behalf of residents of Flint, Michigan, harmed by lead contamination of drinking water.
- 4
- 5 • *In re: Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litig.*: Susman Godfrey served as co-lead counsel for the economic loss class action plaintiffs, reaching an historic settlement valued at approximately \$1.6 billion.
- 6
- 7
- 8 • *In Re: Tiktok, Inc Consumer Privacy Litigation*: Appointed by the U.S. District Court Northern District of Illinois to serve on the Steering Committee to represent plaintiffs in a Biometric Information Privacy Act class action MDL against TikTok and its parent company. In October 2021 U.S. District Judge John Lee granted Plaintiffs’ motion for preliminary approval of a \$92 million litigation-wide settlement. If fully approved, this would end the 21 proposed class actions and mark one of the highest privacy-related settlements in the country.
- 9
- 10
- 11
- 12 • *In Re Blackbaud, Inc., Customer Data Security Breach Litigation*. Appointed co-lead counsel in this multi-district litigation, which relates to a massive data breach. Blackbaud, a cloud computing provider, maintains consumer data on behalf of thousands of non-profit corporations, hospitals, and educational institutions. The complaint alleges that Blackbaud did not maintain adequate security measures, which led to a ransomware attack. The stolen data included bank account information, social security numbers, health care data, usernames, and/or passwords.
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17 13. All stages of this action have benefited (and will continue to benefit) from Susman  
 18 Godfrey’s expertise in complex, technology-driven litigation, including against Google. And  
 19 should the case proceed to trial, counsel’s track record is formidable. All but the most junior  
 20 members of the Susman Godfrey team have tried cases involving complex technology to verdict—  
 21 including a massive case against Google tried in this district.

## 22 2. Team Members

23 14. The Susman Godfrey lawyers presently working on this matter include partners Bill  
 24 Carmody, Amanda Bonn, Shawn Rabin, Ian Crosby, Steven Shepard, and associates Alexander  
 25 Frawley and Ryan Sila.

1           15.     **Bill Carmody:** In February 2018, in one of the most widely reported cases in  
 2 Silicon Valley history, Uber was defending itself against trade-secret claims by Google/Waymo  
 3 seeking roughly \$2 billion. Just months before trial, Uber decided it “was important to have  
 4 someone in the leading position who was a pure trial lawyer—someone whose core skill was  
 5 persuading a lay jury in a complex business case.”<sup>8</sup> So it tapped Bill Carmody. Four days after Mr.  
 6 Carmody gave public and sealed opening statements, and after Mr. Carmody and his team crossed  
 7 the plaintiff’s witnesses, Uber walked away with a settlement that was worth a fraction of what  
 8 Google/Waymo sought.

9           16.     Only two-and-a-half months before the Uber trial, on the other side of the country,  
 10 Mr. Carmody tried a contract case on the plaintiff’s side for General Electric in the Southern  
 11 District of New York, where the jury sided unanimously with GE and the court entered a judgment  
 12 valued at over \$160 million. For over two decades, Mr. Carmody has tried bet-the-company cases  
 13 all around America on both sides of the “v.”.

14           17.     Mr. Carmody has also led some of the largest and most successful class actions in  
 15 history. A few recent examples include representing Yale University, the City of Baltimore, and  
 16 the purchasers of trillions of dollars in LIBOR-based financial products, where Mr. Carmody led  
 17 the charge against 16 of the world’s largest banks, having won certification of a national litigation  
 18 class and already settled with four of the banks for \$590 million. While *LIBOR* was moving  
 19 forward, Mr. Carmody also recovered \$220 million for a class of municipalities suing 10 banks  
 20 and brokers for rigging municipal derivative auctions.<sup>9</sup>

21           18.     Outside of the class action context, Mr. Carmody has racked up impressive victories  
 22 for both plaintiffs and defendants in complex commercial cases. In the *Novartis* qui tam litigation,  
 23 Mr. Carmody secured settlements totaling \$465 million in a novel anti-kickback case—the largest  
 24 recovery ever in a case of its kind. On the defense side, in the epic *Fairfax* litigation, where an

25           <sup>8</sup> Christine Simmons, Attorney of the Year Finalist: Bill Carmody, N.Y.L.J., Oct. 5, 2018, at  
 26 <https://www.susmangodfrey.com/wp-content/uploads/2018/10/SG-Carmody-Video.pdf>.

27           <sup>9</sup> *In re: Municipal Derivatives Antitrust Litig.*, Case No. 08-md-2516 (S.D.N.Y.).

1 insurance company sought \$8 billion in damages from short sellers for allegedly conspiring to  
 2 bring down the price of Fairfax's stock, Bill and his team secured a full dismissal of Susman  
 3 Godfrey's clients on summary judgment.

4 19. Mr. Carmody's trial experience isn't limited to any single area of law or type of  
 5 case, and clients routinely bring him in on the eve of trial. In one case, Mr. Carmody was hired  
 6 just 6 days before trial to defend an insurer in a bet-the-company class action—and secured a  
 7 unanimous jury verdict for his client.<sup>10</sup>

8 20. Mr. Carmody is a member of the American Board of Trial Advocates, a fellow of  
 9 the Litigation Counsel of America, and a fellow of the American Bar Foundation. He is listed in  
 10 *The Best Lawyers in America* in five categories, including Bet-the-Company Litigation. His peers  
 11 have voted him both a "New York Super Lawyer" and a "Texas Super Lawyer." Mr. Carmody  
 12 was a top three finalist in 2018 for the *New York Law Journal's* Attorney of the Year. He has been  
 13 honored by *Law360* as one of its 10 Titans of the Plaintiffs Bar, named to the *National Law*  
 14 *Journal's* list of Elite Trial Lawyers, and is routinely included in *Benchmark's Top 100 Trial*  
 15 *Lawyers*. Mr. Carmody is also perennially listed in the *Lawdragon 500*, the guide to America's  
 16 leading 500 lawyers, and was lauded as one of its 41 "Legal Legends."

17 21. **Amanda Bonn:** A graduate of Stanford Law School and a partner in Susman  
 18 Godfrey's Los Angeles office, Ms. Bonn is a versatile trial lawyer who has litigated high-stakes  
 19 lawsuits on behalf of plaintiffs and defendants, in practice areas ranging from class actions to  
 20 intellectual property matters, at trial and on appeal.

21 22. Ms. Bonn has been recognized as one of the 100 Top Women Lawyers in California  
 22 by the *Daily Journal* (2021), an Up-and-Coming Commercial Litigator in California by *Chambers*  
 23 *& Partners* (2021 and 2022), a Litigation Trailblazer by the *National Law Journal* (2020), one of  
 24 500 Leading Plaintiff Financial Lawyers nationwide by *Lawdragon* (2019-2021), and a member  
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27 <sup>10</sup> *Big Suits*, "Beller et al. v. William Penn," *The American Lawyer*, Sept. 2007.



of *Benchmark Litigation*'s "40 and Under Hot List" (2018-2021). *Chambers* reports that clients and other lawyers have described her as:

- "She's an extraordinary individual. She's the best to work with, and is a smart, nimble and dedicated lawyer."
- "Amanda's work is superb. She's a very gifted legal thinker, writer and oral advocate."
- "She's whip-smart, very practical, and easy to work with."

23. Ms. Bonn has overseen all strategic decision making in this case, and she has successfully argued key motions before the Court, including Google's motion to dismiss the First Amended Complaint as well as most discovery dispute hearings.

24. Ms. Bonn is experienced in managing complex class actions and other complex, multi-party litigation. Ms. Bonn currently leads the defense of the world's leading commodity trading firm, Vitol Inc., in an antitrust case alleging a conspiracy to inflate California gasoline prices over a two-year period. Ms. Bonn was also a core member of the Susman Godfrey team representing indirect purchasers in the *In re: Qualcomm Antitrust Litigation* before this Court. In that capacity, Ms. Bonn was responsible for (1) writing some of plaintiffs' most important briefs, including plaintiffs' successful opposition to Qualcomm's motion to dismiss and reply in support of class certification; (2) overseeing plaintiffs' core experts on antitrust and FRAND licensing issues (Prof. Elhauge, Mr. Lasinski, and Dr. Akl); and (3) deposing key Qualcomm witnesses, including Qualcomm's president Cristiano Amon and Qualcomm's principal expert in opposition to class certification, Dr. Johnson.

25. Ms. Bonn also served as Susman Godfrey's lead California counsel overseeing sprawling litigation on behalf of dozens of California political subdivisions—including Los Angeles County, the Regents of the University of California, and the California State University system, to name a few—against the nation's largest wireless carriers, AT&T, Verizon, and Sprint/T-Mobile in Sacramento Superior Court. After years of hard-fought litigation under Ms. Bonn's leadership, Susman Godfrey achieved settlements that required the telecommunication giants to pay \$138 million to governments in California and Nevada.



1           26. Ms. Bonn is also experienced litigating cases involving complex technology,  
2 including against Google. For over a year, Ms. Bonn represented Rockstar Consortium in its patent  
3 infringement suit against Google related to its use of “user profile” data for targeting  
4 advertisements, overseeing day-to-day discovery and expert work.

5           27. In addition to overseeing day-to-day litigation in complex cases, Ms. Bonn has also  
6 successfully handled cases through trial and on appeal. In 2018, Ms. Bonn delivered the opening  
7 statement in a trade secret misappropriation trial on behalf of defense contractor KBRWyle—  
8 winning a defense verdict on the plaintiff’s trade secret claim. And in 2019, Ms. Bonn briefed,  
9 argued, and won a Ninth Circuit appeal on behalf of an NBCUniversal subsidiary against its insurer  
10 Atlantic Specialty Insurance Company in a case involving whether Hamas’s bombing of Israeli  
11 civilian targets in 2014 constituted a “war” or “terrorism.” Following remand, the case settled the  
12 night before trial in March 2020—a trial in which Ms. Bonn served as co-lead trial counsel and  
13 was prepared to deliver closing arguments.

14           28. **Shawn Rabin:** Mr. Rabin, a Partner in Susman Godfrey’s New York office and a  
15 member of the firm’s Executive Committee, is nationally recognized for his trial successes in  
16 complex cases. Along with Mr. Carmody, Mr. Rabin also represented Uber in its high-stakes trial  
17 against Google/Waymo, where Mr. Rabin was scheduled to cross-examine the star witness  
18 Anthony Levandowski two days after the case ultimately settled. Mr. Rabin played key roles in  
19 major trial victories, including his direct examination of liability experts and cross examination of  
20 defendants’ central fact witness in a breach-of-contract trial on behalf of General Electric, resulting  
21 in a judgment valued at over \$160 million.

22           29. Mr. Rabin has also tried complex patent cases, including a jury trial on behalf of  
23 C2 Communications against the nation’s largest telecommunications carriers for infringing a voice  
24 over internet protocol (VoIP) patent; the case settled after the third day of trial, following the close  
25 of C2’s case-in-chief and Rabin’s direct examination of the patent’s owner and C2’s damages  
26 expert. In recognition of his successes, the National Law Journal named Mr. Rabin a “Plaintiffs’  
27  
28

1 Lawyer Trailblazer” in 2018 and Benchmark Litigation included him on their “40 and Under Hot  
2 List” in both 2018 and 2017. Super Lawyers has recognized Shawn as a “Rising Star” every year  
3 from 2007 to 2017 and U.S. News – The Best Lawyers in America® named Shawn a top litigator  
4 in New York for Commercial Litigation as part of their 2019 rankings.

5 30. Mr. Rabin is also one of few lawyers who has actually tried a class action to a jury.  
6 In 2011, Mr. Rabin tried a misclassification wage-and-hour class action before a Kentucky jury in  
7 a three-week trial—obtaining a complete defense victory on behalf of The Rawlings Company.  
8 While certified class actions often settle, Susman Godfrey is prepared to handle a class action case  
9 through trial where doing so is in the best interests of the class.

10 31. **Steven Shepard:** After graduating in 2007 from Yale Law School, Mr. Shepard  
11 clerked for the Hon. Alex Kozinski on the Court of the Appeals for the Ninth Circuit, and for  
12 Associate Justice Anthony M. Kennedy on the Supreme Court of the United States. He then served  
13 as a Lieutenant in the Navy’s Judge Advocate General’s Corps for several years, trying dozens of  
14 cases before joining Susman Godfrey.

15 32. Mr. Shepard has been recognized by *Lawdragon 500* as one of the nation’s  
16 “Leading Plaintiff Financial Lawyers” in 2019, as a Rising Star by the New York Law Journal in  
17 2019, and as one of Benchmark Litigation’s “40 and Under Hot List” in 2018. Mr. Shepard’s  
18 relevant experience includes his work representing the class of indirect purchasers in the nation’s  
19 largest indirect purchaser class action, *In re Auto Parts*, in which Susman Godfrey was appointed  
20 co-lead counsel. Mr. Shepard assisted the class in obtaining more than \$1.2 billion in settlements  
21 in the case and in briefing and arguing key motions relating to the class notice procedures.

22 33. Mr. Shepard—along with Mr. Carmody and Ms. Bonn—also played a key role in  
23 the massive California False Claims Act case of *State of California ex rel. OntheGo Wireless v.*  
24 *Cellco Partnership*. In *Cellco*, Mr. Shepard oversaw all aspects of the complex expert damages  
25 analysis, which required reconstruction and alternative analysis of hundreds of thousands of  
26 government employees’ cell phone usage and billing records.

1           34.     **Ian Crosby:** Ian Crosby is a partner at Susman Godfrey L.L.P. in Seattle,  
2 Washington. In over twenty years of practice with Susman Godfrey, Mr. Crosby has represented  
3 corporations, universities, and individuals as plaintiffs and defendants in a wide variety of  
4 intellectual property and commercial disputes and transactions involving intellectual property,  
5 including patents, trade secrets, and copyrights. Mr. Crosby is recognized by U.S. News – The  
6 Best Lawyers in America® for Intellectual Property and Patent Litigation, has been a national  
7 meeting presenter and panelist for the American Intellectual Property Association, and is a  
8 recipient of the 2017 Editor’s Choice Award from Managing IP. Before joining Susman Godfrey,  
9 Mr. Crosby clerked for the Hon. Robert Boochever on the United States Court of Appeals for the  
10 Ninth Circuit, and for Chief Judge John Coughenour on the United States District Court for the  
11 Western District of Washington. Mr. Crosby holds a BA with a faculty commendation for  
12 excellence from Reed College, and a JD with high honors from the University of Texas at Austin.

13           35.     **Alexander Frawley:** Mr. Frawley, a graduate of the University of Pennsylvania  
14 Law School, joined Susman Godfrey following clerkships with the Honorable Dennis Jacobs,  
15 United States Court of Appeals for the Second Circuit, and the Honorable Katherine B. Forrest,  
16 United States District Court for the Southern District of New York. Prior to clerking, Mr. Frawley  
17 began his career at Davis Polk & Wardwell LLP, where he helped win complete dismissal of all  
18 claims against Roche Holding and certain officers and directors in a securities litigation in New  
19 Jersey federal court relating to the disclosure of clinical trial results. During law school, Mr.  
20 Frawley served as an Executive Editor of the *University of Pennsylvania Law Review* and a  
21 teaching fellow for the first-year legal writing program. Mr. Frawley, one of the most junior  
22 members of Plaintiffs’ Counsel team, successfully argued at the hearing on Google’s motion to  
23 dismiss Plaintiffs’ First Amended Complaint, as well as numerous discovery dispute hearings. Mr.  
24 Frawley also took four depositions in this case, including of a Google employee who developed  
25 the maybe\_chrome\_incognito bit, as well as a Rule 30(b)(6) deposition.

